IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Crl.Rev.Pet.No. 829 of 1999()

CRA.272/1998 of V ADDL.SESSIONS COURT, ERNAKULAM
CC.301/1995 of JUDL.MAGISTRATE OF FIRST CLASS-II, MUVATTUPUZHA
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REVN. PETITIONER: APPELLANT- ACCUSED

BIJU, S/O.KARIYPE, OLIYAPPURATHU, RAMALLOOR KARA, KOTHAMANGALAM VILLAGE.

BY ADV. SRI.SAIBY JOSE KIDANGOOR

RESPONDENT: RESPONDENT- COMPLAINANT

STATE OF KERALA, REP.BY EXCISE CIRCLE INSPECTOR, MUVATTUPUZHA, OR 112/94 REP.BY THE PUBLIC PROSECUTOR, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.829 of 1999

Dated this the 19th day of July, 2007

O R D E R

The revision petitioner is the accused who stands convicted for the offence under Section 55(a) of the Abkari Act and sentenced to undergo R.I. for six months and to pay a fine of Rs.1,000/- and in default, to undergo R.I. for three months.

2. The prosecution case is that on 23.12.1994 at 3.00p.m. the accused was found transporting 24.075 litres of foreign liquor in an autorickshaw.

3. The evidence adduced in the matter consisted the testimony of PWs' 1 to 5 and Exts. P1 to P6. The defence examined DW1.

4. I find that the courts below have considered the evidence adduced in the matter in detail and has found that the accused is guilty of the offence alleged. The evidence of the occurrence witnesses that consisted of the testimony of PW1, the preventive officer, PW2, the excise guard who was in the detecting squad stand unimpeached. PWs' 3 and 4, the

independent witnesses, turned hostile. No infirmity has been brought out in the evidence of PWs' 1 and 2, the occurrence witnesses. I find no reasons to interfere in the concurrent findings of the court below.

5. Considering the plea of the counsel for the revision petitioner and taking into consideration that the date of occurrence is on 23.12.1994 and that about 13 years have elapsed since the commencement of the proceedings, the sentence is modified to imprisonment till the rising of the court and to pay a fine of Rs.5,000/- and in default, to undergo simple imprisonment for one month.

The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl